

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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BOARD OF ZONING ADJUSTMENT

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PUBLIC MEETING

+ + + + +

TUESDAY

JULY 8, 2003

+ + + + +

The Public Meeting convened in Room 220 South, 441 4th Street, N.W., Washington, D.C. 20001, pursuant to notice at 9:25 a.m., Geoffrey H. Griffis, Chairperson, presiding.

BOARD OF ZONING ADJUSTMENT MEMBERS PRESENT:

- GEOFFREY H. GRIFFIS, Chairperson
- CURTIS L. ETHERLY, JR., Board Member
- DAVID A. ZAIDAN, Board Member (NCPC)
- RUTHANNE G. MILLER, Board Member
- PETER G. MAY, Board Member

ZONING COMMISSION MEMBER PRESENT:

- JOHN G. PARSONS, Commissioner

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APPEARANCES (Continued)

COMMISSION STAFF PRESENT:

BEVERLEY BAILEY, Office of Zoning
CLIFFORD MOY, Office of Zoning

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P-R-O-C-E-E-D-I-N-G-S

(9:25 a.m.)

CHAIRPERSON GRIFFIS: Let me call to order the special public meeting of the 8th of July, 2003, the Board of Zoning Adjustment. I'm going to hold off the opening statements for our public hearing so we can get right into our decisionmaking. Of course, a public meeting is a straight deliberation by the Board; no new testimony is provided. We have two cases for decision before us this morning. Why don't we get right into that, and we can call those cases for the record.

APPLICATION NO. 17026

OF WILLIAM SCHORTINGHOUSE

MR. MOY: Yes. Good morning, Mr. Chairman, members of the Board.

The first case for decisionmaking is Application Number 17026 of William Schortinghouse, pursuant to 11 DCMR 3103.2 for a variance from the rear yard requirements under Section 404 to allow the construction of a rear deck and carport to an existing apartment house in the R-4 District at premises 1326 Girard Street, Northwest, and that's in Square 2860, Lot 821, per subdivision.

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1 The Board completed hearing testimony
2 on the case application and requested additional
3 information for its decision on July 8, to be held
4 on July 8, 2003. The applicant submitted the
5 post-hearing information to the Board on July 1st,
6 and that's in your case folders under Exhibit 39,
7 Mr. Chairman.

8 That completes my briefing.

9 CHAIRPERSON GRIFFIS: Okay. Thank you
10 very much, Mr. Moy.

11 Let's jump right into this case. We
12 have asked for the additional submission. As Mr.
13 Moy has pointed out, we have received it and the
14 Board has reviewed it.

15 Clearly we're here for a variance
16 regarding the rear yard requirements which are
17 attendant to somewhat the existing carriage house.

18 Let me run through, first of all, my reading of
19 this case.

20 Obviously uniqueness has to be
21 established for this, and I believe that it has, in
22 fact, strongly been. This building, as constructed
23 in 1900, one of the original if not the original
24 building on the block as testified to, it is unique
25 in numerous aspects. First of all, its size, the

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1 lot itself, its detached nature in a square and
2 block of row dwellings outside of those I believe
3 were evidenced in a commercial zone towards the
4 corner which are, one would assume, conforming but
5 outside of this zone, R-4.

6 The history of the alley construction
7 that was done after the building, in fact, was in
8 existence encroaches on the carriage house that
9 actually kind of wraps around it, reducing an alley
10 behind the carriage house that was in existence.
11 The carriage house itself is non-conforming to the
12 current zoning regulations in terms of its second
13 level story and height. All of which provide the
14 uniqueness that goes into the practical difficulty
15 as the alley and the age of the construction has
16 limited the availability of the rear yard.

17 In looking at this case as presented to
18 us, there are plans to create, as established,
19 viable means of second egress from the carriage
20 house and from the second floor. This would impact
21 the required open rear yard area.

22 What is being in addition proposed for
23 this is an enhancement of the residential --
24 basically utilization of that open space in the
25 rear, providing with a deck that would also not

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1 impair any of the light and air to the existing or
2 adjacent properties.

3 Modernization and upgrading of
4 structures obviously is an important criteria,
5 especially for those that are over 100 years old,
6 and I think that should be looked at fairly
7 seriously.

8 Office of Planning came in in
9 opposition and they came in in opposition on two
10 points. One, I think most critically, was the fact
11 that the density was difficult to handle in an R-4
12 zone based on the fact of the restricted
13 availability of parking on the streets. However,
14 the lot itself is conforming to provide the number
15 of units that are proposed and, in fact, the
16 enhanced residential recreation space is
17 characterized in the applicant's submissions. That
18 enhanced recreation space actually provides
19 additional parking below it. In fact, the proposed
20 project provides parking beyond that required for
21 this size of modernization and upgrading to the
22 structure.

23 In terms of impairing intent and
24 integrity or having, as we might say, any sort of
25 adverse effect on the common good or specifically

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1 on the adjacent properties and use, I found none
2 evidenced. In fact, it seems to be that there may
3 be some benefit when looking at this utilization of
4 the property to provide as much parking as possible
5 without encroaching on -- perhaps my personal
6 opinion, but without encroaching on the character
7 of the building itself, its siting and its
8 landscape and its architecture.

9 The other aspect to it in terms of
10 Office of Planning, I had difficulty in following
11 the strength of their argument, I understand their
12 argument, but the strength of it as the existing
13 allowable utilization of the carriage house would,
14 in fact, increase the density as opposed to that
15 which is proposed in this application, meaning
16 having three, I believe it was submitted, three
17 artist studios with the potential of residential
18 quarters for those artists would obviously impact
19 the utilization of the carriage house as opposed to
20 having a single unit or one residential unit.

21 So if you look at the utilization going
22 into directly the concern of the Office of
23 Planning, that is parking, one would think that you
24 would look for a lesser dense or a lesser
25 utilization of the property, which, in fact, would

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1 then align themselves with the proposed project;
2 however, they are not.

3 I will leave it at that as my
4 understanding and deliberation on this application.

5 Others? Mr. May.

6 MEMBER MAY: Actually, I have a --

7 CHAIRPERSON GRIFFIS: Oh. Mr. Zaidan.

8 MEMBER MAY: Well, I have a question
9 really quick in regards to one of your aspects of
10 the uniqueness.

11 It's my understanding from the
12 application that the alley was -- there was eight
13 feet of alley removed; is that correct?

14 CHAIRPERSON GRIFFIS: There was?

15 MEMBER MAY: There was eight feet of
16 land taken from the applicant for this alley -- or
17 from the property.

18 CHAIRPERSON GRIFFIS: I believe that's
19 correct.

20 MEMBER MAY: Which basically cut it
21 around the carriage house.

22 CHAIRPERSON GRIFFIS: Right. That's
23 correct. Which created a non-conformity in terms
24 of the setback of the carriage house.

25 MEMBER MAY: Well, that's not the way I

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1 look at it. It seems to me that the carriage house
2 would still --

3 CHAIRPERSON GRIFFIS: If the carriage
4 house was built today, first of all, it wouldn't be
5 built as it is, but it would have to be set back
6 twelve feet from the center line of the alley.

7 MEMBER MAY: Okay.

8 CHAIRPERSON GRIFFIS: Which it is
9 clearly not. So there are two aspects to it.
10 Actually, as the alley was created, it encroached
11 on the actual property beyond a structure into a
12 straight-line property or lot.

13 MEMBER MAY: That didn't create the
14 non-conformity, though. I mean, it was already
15 non-conforming. Even if the alley had stayed at
16 eight feet, it would have been non-conforming.

17 CHAIRPERSON GRIFFIS: Well, I think the
18 alley is non-conforming; the property was there. I
19 understand what you're saying.

20 MEMBER ZAIDAN: I think Mr. May is
21 right. The other aspect is the carriage house is
22 greater than 30 percent of the rear yard, which I
23 believe is the regulation.

24 CHAIRPERSON GRIFFIS: Correct.

25 MEMBER ZAIDAN: So I guess what I'm

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1 struggling with is tying the issue -- because I
2 personally think that the issue of the taking of
3 the land for the alley is an aspect of the lot that
4 is something that we should definitely be looking
5 at for the variance. I think that causes unique
6 situations. However, I have a hard time tying that
7 issue with what applicant is trying to do, and
8 that is, by creating this amenity area by covering
9 the carport -- creating the carport, I guess I
10 should say, and attaching the main structure to the
11 carriage house, which then creates all one
12 structure, makes it have to honor the rear yard
13 setback.

14 So I just have a hard time connecting
15 that alley issue with this, because it seems to me
16 that even if the alley land had not been taken,
17 they would still be in the same predicament trying
18 to build this project.

19 CHAIRPERSON GRIFFIS: Okay.

20 MEMBER MAY: I would agree with that.
21 I didn't consider that aspect of it, but I think
22 that is a valid point.

23 I guess I have a question, too, about
24 your disagreement with OP, which all seemed to
25 focus on the density issue. Did I miss something

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1 there, or were there actually two points. I mean,
2 you started out saying there were two points that
3 it focused on and they both seemed to be density,
4 and I was wondering if there was something else.

5 CHAIRPERSON GRIFFIS: No. I
6 consolidated them into one.

7 MEMBER MAY: Okay. All right.

8 I happen to think that that part of
9 OP's argument is weak when you consider the
10 guidelines that were set forth for what's the
11 appropriate density when you take an existing
12 structure in an R-4 neighborhood and make it into
13 an apartment building, that, you know, they meet
14 that test, and so therefore the intended use is not
15 a non-conformity.

16 But I don't think that's the strength
17 of OP's case by any stretch. I think that the
18 essentials of OP's argument and the essential
19 issues with this project are that, you know, while
20 there may be some things about the property that
21 make it unusual, it is not truly exceptional in the
22 spirit of the zoning regulations in that it doesn't
23 -- it's not exceptionally narrow, it's not
24 exceptionally encumbered by existing historic
25 structures or any of those other circumstances that

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1 would regularly recognize this as creating a
2 difficulty for making good use of the property.

3 I don't think that in the existing --
4 with the existing property configuration that a
5 variance for the rear yard requirement is necessary
6 to make reasonable use of the property by any
7 stretch.

8 CHAIRPERSON GRIFFIS: But reasonable
9 use, that's going to more of a use variance test
10 than undue hardship.

11 MEMBER MAY: Well, everything
12 ultimately revolves around the ability to build on
13 the property.

14 CHAIRPERSON GRIFFIS: Right.

15 MEMBER MAY: Right. So when I say
16 reasonable use, I'm not saying that -- I'm not
17 arguing that this is a use variance; I'm saying
18 that the stated desire to build a carport is not a
19 requirement to make -- to build out the property
20 and use the property in a reasonable way.

21 CHAIRPERSON GRIFFIS: But I have great
22 difficulty if we get into questioning the proposed
23 project because we're all going to have different
24 opinions. I mean, some of us may feel that it's
25 not a good idea, others --

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1 MEMBER MAY: Well --

2 CHAIRPERSON GRIFFIS: So my point is
3 simply that I think we need to take it on faith
4 that this is what is proposed, not question why
5 it's proposed or whether it's actually needed,
6 required or proper.

7 MEMBER MAY: If we get into why, we'll
8 get into the lengthy arguments about how this is
9 really a use variance disguised as an area
10 variance.

11 CHAIRPERSON GRIFFIS: It can't be a use
12 variance. It's a residential zoning and it has a
13 residential use.

14 MEMBER MAY: Well, but there are
15 certain uses that are not allowed in accessory
16 structures, and the act of connecting the two
17 changes the nature of the accessory building and
18 makes it part of the original building, and
19 therefore it changes the allowable use within the
20 accessory building. But that's not the purpose of
21 what's being presented to us.

22 CHAIRPERSON GRIFFIS: Right.

23 MEMBER MAY: The purpose of what is
24 being presented to us is -- essentially what it
25 boils down to is, one, it creates parking. There

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1 is no reason why parking can't be created as it is.

2 What they are trying to do is create recreation
3 space. Okay. They can create recreation space and
4 not connect the buildings, but that would require a
5 variance as well.

6 CHAIRPERSON GRIFFIS: Can they provide
7 the egress?

8 MEMBER MAY: If there is a need to
9 create egress, there may well be a way to do it
10 that doesn't require a rear yard, but that's not
11 what has been proposed. What has been proposed is
12 an infringement on the rear yard which there is not
13 a justification for.

14 It's a very difficult case to make
15 given the information that has been presented so
16 far. It doesn't create a practical difficulty in
17 being able to do essentially what the owner wants
18 to do with the property. The owner can still
19 create an apartment building, the owner can still
20 make use of the accessory building, the owner can
21 still create parking as required. In fact, the
22 owner could create more parking than is required,
23 and if that's what people want instead of the
24 recreation space, then create the open parking
25 spaces like the other open parking spaces.

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1 I don't -- this is a practical
2 difficulty of the owner's creation, and I don't see
3 an avenue within the zoning regulations that would
4 allow us to grant this variance.

5 CHAIRPERSON GRIFFIS: Very well.

6 Others? Ms. Miller.

7 MEMBER MILLER: I have to concur with
8 Mr. May. I think when we look at the standards a
9 variance, that the property doesn't meet the
10 uniqueness test nor the practical difficulties
11 test. I think that was the strength of OP's
12 report, not the third prong that dealt with
13 density.

14 When we were listening to the arguments
15 made as to what is unique about the property, it
16 seemed to me that it came down to the fact that the
17 carriage house was built prior to the boundary line
18 of the alley behind the property being moved, and
19 that didn't seem to me to be the type of uniqueness
20 that has been recognized for a variance. The other
21 neighbors have the same kind of boundary line from
22 the alley, and this seems to me to be a stretch
23 that I don't see justified.

24 CHAIRPERSON GRIFFIS: If you look at
25 the Office of Planning's report and their aerial

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1 photograph, which is their last attachment, and you
2 look at the square defined between Girard and
3 Fairmont, 13th and 14th, the last attachment --

4 MEMBER MILLER: What is your point?

5 CHAIRPERSON GRIFFIS: Can you point to
6 me any building that is even closely similar in
7 that square?

8 MEMBER MILLER: When I look at the lot,
9 it seems to me that it may be different from its
10 neighbors, but it doesn't rise to the level of
11 uniqueness that has been recognized for a variance.

12 MEMBER MAY: I agree with that. I
13 mean, this is an unusual property for that block,
14 there's no doubt about it, --

15 CHAIRPERSON GRIFFIS: That confounds
16 me.

17 MEMBER MAY: -- but it doesn't --

18 CHAIRPERSON GRIFFIS: Show me a
19 property on that square that could put legally
20 seven units in that would have to provide three to
21 five parking spaces.

22 MEMBER MAY: There's no obstacle for
23 them to provide parking spaces. There's nothing
24 that prevents them from providing the parking
25 spaces, so why -- I mean, unless this uniqueness

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1 creates the practical difficulty of making that use
2 of the property, then there is no uniqueness.

3 CHAIRPERSON GRIFFIS: Right.

4 MEMBER MAY: And I don't see a
5 uniqueness here that -- I mean, if the regulations
6 were different, if there were different constraints
7 on the property as a result, if this were a
8 different R zone, there may be constraints on the
9 property that would be grounds for a variance.

10 I mean, everybody else on that block
11 lost space to the alley. They lost space -- they
12 lost less space than everyone else, so it's
13 probably less unique.

14 CHAIRPERSON GRIFFIS: Did the alley
15 encroach on the lot itself? Did it encompass a
16 carriage house on any other lot in that square?

17 MEMBER MAY: It doesn't, but all that
18 means is that they got a better deal when they made
19 the alley, that their building wasn't cut down. I
20 mean, very easily the alley could have been eight
21 feet toward the bottom of the picture, right, and
22 so the carriage houses across the way could have
23 been the ones that were non-conforming.

24 CHAIRPERSON GRIFFIS: There are no
25 carriage houses.

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1 MEMBER MAY: Well, they're garages.

2 CHAIRPERSON GRIFFIS: They are all row
3 houses.

4 MEMBER MAY: Well, there are garages on
5 those houses.

6 CHAIRPERSON GRIFFIS: Except for one
7 large apartment building.

8 MEMBER ETHERLY: And in your opinion,
9 Mr. May, that particular observation wouldn't cut
10 in the direction of buttressing the applicant's
11 argument for uniqueness because of the nature and
12 size of the carriage house. Granted there are, of
13 course, additional structures on each of the lots
14 as you look at the overhead -- probably the better
15 shot might be page number 5 -- but given the size
16 of the carriage house, the impact of the alley and
17 the action by the District some years back, that
18 doesn't itself also add some weight to the
19 uniqueness and practical difficulty arguments.

20 MEMBER MAY: No, not at all. I mean,
21 as I said before, this property got a better deal
22 out of the alley creation than anybody else. Why
23 would that create a unique situation that entitles
24 them to do more with the property that somebody
25 else wouldn't be able to?

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1 CHAIRPERSON GRIFFIS: Okay. I'm sorry,
2 Ms. Miller, I interrupted you.

3 MEMBER MAY: No, I did.

4 CHAIRPERSON GRIFFIS: Well, I started
5 it, Mr. May.

6 Ms. Miller.

7 MEMBER MILLER: I'm not sure where I
8 was, but I guess if you get to the second prong of
9 the practical difficulties, I think in this case
10 also, they can still use the carriage house, they
11 just can't use -- and they just can't use the
12 property in the way they want to if they were to
13 get the variance.

14 CHAIRPERSON GRIFFIS: It's not a use
15 variance, though.

16 MEMBER MILLER: I understand that, but
17 I -- I'm not sure what the distinction is with
18 respect to what the practical difficulty --

19 CHAIRPERSON GRIFFIS: The distinct
20 between an area variance and a use variance?

21 MEMBER MILLER: In this case. I mean,
22 they can still use their property for a reasonable
23 use. They can't use it without the variance for
24 the use that they want here, that's all.

25 CHAIRPERSON GRIFFIS: Okay.

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1 MEMBER ETHERLY: And just to add to
2 that, Mr. Chairman, I guess my concern with that
3 observation -- Ms. Miller is absolutely correct,
4 and I think both she and Mr. May are kind of
5 essentially arguing the same point. The applicant
6 can use the carriage house in some way, and perhaps
7 in some reasonable way, just not as a habitable
8 unit.

9 My problem with that is my concern that
10 sometimes our allegiance -- well, I won't say
11 allegiance because I think you can still look at
12 this case and get where the applicant wants to get
13 and satisfy the test at the same time, so I'm in
14 agreement with the Chair here. But I think the
15 larger point that concerns me is a sometimes shall
16 we say slavish adherence to the letter of the test,
17 if not necessarily the spirit here, and my concern
18 here is, -- you've heard me say it before; perhaps
19 not Ms. Miller because Ms. Miller has just recently
20 joined us -- but I'm always a fan, shall we say, of
21 trying to bring housing on the market and I see a
22 very viable project here where we have an
23 opportunity to make a reasonable use of the
24 carriage house.

25 Granted, as OP said, there can be other

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1 uses made of the carriage house, but for structures
2 with the kind of history that we have here, why
3 would you simply want to relegate the use of such a
4 beautiful structure to, you know, a leasing office
5 or a rental office or some other type of accessory
6 use? Why not take advantage of that space in a
7 very productive way as residential space?

8 MEMBER MILLER: I just want to respond
9 to that, because I think that this is a really
10 creative project and it's something that I would
11 like to support and it's something the neighbors
12 support. But the way I read our authority to deal
13 with variances, it's not something that we grant
14 because we think it's good and we would like to
15 support it, it's popular. I just don't see that it
16 fits the test. That's my problem with this one.

17 CHAIRPERSON GRIFFIS: Okay. Anything
18 else?

19 MEMBER MAY: No. I want to underscore
20 that point and I don't think that it's within the
21 bounds of what the BZA is charged to do to attempt
22 to interpret the spirit of the regulations.

23 I mean, I agree, I would really like to
24 be able to approve this because I think that there
25 probably should be a way to do something like this

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1 within the zoning regulations; however, there is
2 not, and it's not our purview in this Board to be
3 able to make that exception here.

4 CHAIRPERSON GRIFFIS: Okay. Anything
5 else?

6 Mr. May, I disagree with you in your
7 last statement in terms of interpreting the spirit.

8 We look and often endeavor in any avenue we can to
9 understand what the Commission meant by writing
10 such obsequious sections of which we have an
11 afternoon full of that this afternoon. So we do,
12 in fact, have, although perhaps limited, but
13 interpretive pieces.

14 I think I have heard from the Board.
15 The applicant and the representative I understand
16 are -- I think I'm correct -- are present today. I
17 think you can read the Board and the feeling in
18 which direction this may, in fact, be pursuing, so
19 I would like to step aside a bit for deliberation
20 and actually give the applicant an opportunity to
21 take a different course at this time; otherwise, we
22 will proceed very quickly into a motion.

23 I perhaps can be very direct and ask if
24 there is a motion for withdrawal of the application
25 at this time, and I can --

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1 [Pause.]

2 CHAIRPERSON GRIFFIS: Let me add why I
3 might be doing this, in that if this application is
4 withdrawn, it is my understanding that within 60
5 days, it could be resubmitted with new information
6 or new configuration. If this is denied, the
7 denial obviously stands on the property, and
8 obviously if there is future anticipation of other
9 courses of action, it may become problematic.

10 [Pause.]

11 CHAIRPERSON GRIFFIS: Okay. The
12 applicant has indicated that they have supplied the
13 information that they could for this project, in
14 which case I will entertain action by the Board if
15 it is so inclined.

16 MEMBER ETHERLY: Mr. Chairman, it would
17 be my position to move approval of Application
18 Number 17026 of William Schortinghouse pursuant to
19 11 DCMR 3103.2 for a variance from the rear yard
20 requirements under Section 404, to allow the
21 construction of a rear deck and carport to an
22 existing apartment house in the R-4 District at
23 premises 1326 Girard Street, Northwest, Square
24 2860, Lot 821, and I would invite a second.

25 CHAIRPERSON GRIFFIS: Thanks. I'll

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1 second the motion.

2 MEMBER ETHERLY: Thank you much, Mr.
3 Chair.

4 If I could just for purposes of
5 discussion, I once again associate my remarks with
6 the Chair's earlier summary of the case here.

7 We have a property whose construction
8 dates back to the 1900s inclusive of a detached
9 two-story carriage house at the rear of the
10 property. Unlike some of my colleagues, I find the
11 earlier action of the District Government with
12 regard to lot, the widening of the public alley in
13 the rear, to contribute to that issue of uniqueness
14 with regard to this property.

15 When you take a look once again at the
16 overhead area photographs that were provided by the
17 Office of Planning and you look at the impact of
18 the alley on this particular lot relative to the
19 other lots, I agree with Mr. May that perhaps the
20 applicant did indeed get a better deal, but if that
21 better deal cuts one way with the widening of the
22 alley, I don't see why the same circumstance could
23 not necessarily apply in the context of the
24 analysis of our variance test here.

25 This structure is indeed I believe a

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1 historic one, and I will just put that in quotes.
2 We're not necessarily talking about a formally
3 designated property as such, but nevertheless a
4 property that has a certain character that I think
5 does this community well to be retained if not
6 capitalized upon from the use of -- from the use or
7 the extension of the residential use of the
8 remainder of the property to the carriage house.
9 And I would definitely invite additional comment
10 from the Chair. Thank you.

11 CHAIRPERSON GRIFFIS: I think that is
12 an excellent summary, and I think I have stated my
13 deliberation on this.

14 Other comments, deliberation on the
15 motion to approve?

16 [No response.]

17 CHAIRPERSON GRIFFIS: If not, I would
18 ask for all those in favor of the motion to signify
19 by saying aye.

20 [Chorus of ayes.]

21 CHAIRPERSON GRIFFIS: And opposed?

22 [Chorus of nos.]

23 CHAIRPERSON GRIFFIS: If we could
24 record the vote, Mr. May -- Mr. Moy.

25 MR. MOY: It's close, Mr. Chairman.

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1 Staff recorded the vote as I believe
2 Mr. Zaidan voted in favor, so the vote --

3 MEMBER ZAIDAN: No, I did not.

4 MR. MOY: Did not?

5 MEMBER ZAIDAN: I voted opposed.

6 MR. MOY: Did not? Opposed? Okay.

7 So staff recorded the vote as two,
8 three, zero. Motion fails.

9 CHAIRPERSON GRIFFIS: Thank you very
10 much. And when you're ready, Mr. Moy, let's call
11 the next case for our morning special public
12 meeting.

13 APPLICATION NO. 17027

14 OF EMERGENCE, INCORPORATED

15 MR. MOY: The next case is Application
16 Number 17027 of Emergence, Incorporated, pursuant
17 to 11 DCMR 3104.1, for a special exception to allow
18 a community service center under Section 334 in the
19 R-4 District at premises 731 through 733 Euclid
20 Street, Northwest, and that's in the first and
21 second floors of the building in Square 2884, Lot
22 836.

23 On July 1st, 2003, the Board heard
24 testimony on the case application and scheduled its
25 decision for July 8, 2003. This would allow the

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1 applicants to submit supplemental information. On
2 July 2nd, 2003, the applicant submitted
3 post-hearing documents that include the
4 organization's bylaws and their certificate of
5 incorporation from DCRA, and that is identified as
6 Exhibits 27 and 26 respectively, and those
7 documents are in your case folders, Mr. Chairman.

8 CHAIRPERSON GRIFFIS: Thank you very
9 much.

10 Again, Board members, this is a special
11 exception. What was fascinating to me in this case
12 was the history of it, and I know we all took great
13 note of that during the public hearing. The
14 National Association for the Relief of Destitute
15 Colored Women and Children actually owned the
16 property since the early or mid 1800s and the
17 association was established and chartered by an act
18 of Congress in 1863.

19 The first structure, of course, showed
20 up on the site in 1915, as was testified in part of
21 the record. Obviously we're not creating the
22 uniqueness or practical difficulty test here, but
23 that which goes to the special exception.

24 I think it's very clear in terms of
25 Section 334, the community service center -- that

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1 it complies with all of those requirements and
2 therefore is properly before us for a motion to
3 approve, and I would so move approval of the
4 application of the Emergence Community Arts
5 Collective pursuant to 3014.1, which is seeking a
6 special exception under Section 234 for the
7 community service center in the R-4 District.

8 We have, as Mr. Moy laid out,
9 additional submissions required, and that was just
10 to fulfill parts of 334 which establish the
11 non-profit incorporation and status of the group.
12 It has come in with great support of adjacent
13 neighbors and other associated with the application
14 as well as the Office of Planning, and we did do
15 and have evidence and testimony involved that the
16 use of this -- oh. Perhaps we'll have a second and
17 then I'll continue.

18 MEMBER ZAIDAN: I'll second the motion.

19 CHAIRPERSON GRIFFIS: Thank you very
20 much, Mr. Zaidan. That would be a heck of one to
21 write the order with, wouldn't it?

22 In terms of the adverse noise or
23 objectionable activity, there was no evidence that
24 pointed to that being created, nor, in our own
25 analysis and review of the case, would it become

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1 apparent that it would.

2 The structural changes obviously were
3 addressed. There will be structural changes as we
4 would anticipate. The intent of 334.3 as I would
5 interpret and analyze the zoning regulations intent
6 of that requirement, clearly speaks to changing the
7 structural character outside of the zone of which
8 is R-4. There obviously are structural
9 requirements that would need to be made as the
10 building has been vacant for some time, and I think
11 it complies with the rest and we won't need to run
12 through it.

13 I would ask for other deliberation on
14 the motion to approve, if needed.

15 MEMBER ETHERLY: Mr. Chair, I am in
16 complete agreement with your summary of the case.
17 The proximity of the subject property along the
18 Georgia Avenue corridor, in particular its
19 relationship to Banneker High School, Howard
20 University, I think makes this a very, very good
21 fit for the community and really illustrates what
22 334 is all about in terms of our role here today.

23 I would also note, of course, that the
24 applicant did speak to the provision of parking at
25 the rear of the property, and given 334.2, which

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1 speaks to noise or other objectionable conditions,
2 I just think it's very clear that this is going to
3 be an asset to the community that's going to serve
4 this community well into the future.

5 I will note, not necessarily as part of
6 our deliberation, but in the past when we have had
7 similar types of endeavors, I will note that at one
8 point, we had a boxing club that came before this
9 Board for a decision and, without noting what the
10 disposition of it was, we did comment that at some
11 point, Board members would endeavor to take a
12 boxing class or two, and now we would like to
13 suggest that we add Quaprara to the list also.

14 But with that being said, Mr. Chairman,
15 I am very happy to support this project. Thank
16 you.

17 CHAIRPERSON GRIFFIS: Thank you. That
18 brings back interesting memories about the previous
19 case.

20 MEMBER ZAIDAN: Some of those
21 techniques may come in well in our deliberations.

22 CHAIRPERSON GRIFFIS: That's true.

23 [Laughter.]

24 CHAIRPERSON GRIFFIS: We'll try and
25 keep that back in the executive board room.

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1 MEMBER ZAIDAN: Sure.

2 CHAIRPERSON GRIFFIS: Others, comments?

3 [No response.]

4 CHAIRPERSON GRIFFIS: Very well. Then
5 I would ask for all those in favor of the motion
6 signify by saying aye.

7 [Chorus of ayes.]

8 CHAIRPERSON GRIFFIS: And opposed?
9 Abstain?

10 [No response.]

11 CHAIRPERSON GRIFFIS: Mr. Moy, if you
12 would record the vote.

13 MR. MOY: The staff would record the
14 vote as four, zero, zero. We have a proxy vote
15 from Mr. Hannaham to approve the case application
16 under the condition that the applicant provides
17 evidence of its non-profit status. So staff would
18 conclude, then, that Mr. Hannaham would vote in
19 favor of the case application, with the final tally
20 of the vote as five, zero, zero, in favor of the
21 case application.

22 CHAIRPERSON GRIFFIS: Good. Thank you
23 very much.

24 That would conclude, then, our special
25 public meeting; am I correct, Mr. Moy? Is there

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1 other business for us in the meeting?

2 MS. BAILEY: Just is there a summary
3 order? My name isn't Mr. Moy, but --

4 CHAIRPERSON GRIFFIS: I'm sorry. I
5 find no difficulty or objection, --

6 MEMBER MILLER: No.

7 CHAIRPERSON GRIFFIS: -- unless the
8 Board has any difficulty, in doing a summary order.
9 Summary order it is. Very well.

10 Anything else, Ms. Bailey?

11 MS. BAILEY: Sorry, Mr. Chairman. I
12 just interrupted Mr. Moy, but we needed to get that
13 on the record. So that's it.

14 CHAIRPERSON GRIFFIS: There is nothing
15 else?

16 MR. MOY: No.

17 CHAIRPERSON GRIFFIS: Very well. Thank
18 you very much. That would then conclude our
19 special public meeting.

20 [Whereupon, at 10:00 a.m., the special
21 public meeting adjourned.]

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